

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #4	CCRB Case #: 201804239	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/18/2018 7:46 PM	Location of Incident: Schenectady Avenue and Atlantic Avenue	Precinct: 77	18 Mo. SOL 11/18/2019	EO SOL 11/18/2019	
Date/Time CV Reported Fri, 05/18/2018 9:33 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/29/2018 10:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Grady	07632	948037	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shawn Guertin	27975	950542	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Grady	Discourtesy: Police Officer Matthew Grady spoke discourteously to § 87(2)(b)	
B.POM Matthew Grady	Abuse: Police Officer Matthew Grady threatened to arrest § 87(2)(b)	
C.POM Matthew Grady	Discourtesy: Police Officer Matthew Grady acted discourteously toward § 87(2)(b)	

Case Summary

On May 18, 2018, § 87(2)(b) filed this complaint with IAB via telephone. The complaint was received at the CCRB on May 29, 2018.

On May 18, 2018, at 7:46 p.m., in the vicinity of Atlantic Avenue and Schenectady Avenue in Brooklyn, Police Officer Matthew Grady and Police Officer Shawn Guertin, both of the 77th Precinct, stopped § 87(2)(b)'s vehicle. PO Grady said, "You're going to give us your fucking license," and, "You're going to fucking jail" (**Allegation A: Discourtesy**, § 87(2)(g) and **Allegation B: Abuse of Authority**, § 87(2)(g)). When PO Grady returned to § 87(2)(b)'s vehicle, he dropped § 87(2)(b)'s license and summons on his passenger's seat without giving § 87(2)(b) an opportunity to take it (**Allegation C: Discourtesy**, § 87(2)(g)).

There is no known video footage of this incident.

PO Grady issued § 87(2)(b) a summons for talking on his phone while driving (BR 01).

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Matthew Grady spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Matthew Grady threatened to arrest § 87(2)(b)

Allegation (C) Discourtesy: Police Officer Matthew Grady acted discourteously toward § 87(2)(b)

§ 87(2)(g)

The following facts are undisputed:

On May 18, 2018, at 6:44 p.m., PO Grady and PO Guertin conducted a car stop in the vicinity of Atlantic Avenue and Schenectady Avenue in Brooklyn. The officers observed § 87(2)(b) driving while using his cell phone, which § 87(2)(b) admitted to, and PO Guertin issued § 87(2)(b) a summons for doing so (BR 02).

At 7:46 p.m., PO Grady and PO Guertin pulled § 87(2)(b) over a second time, as they again observed him using his cell phone while driving. PO Grady and PO Guertin both approached the passenger's side of § 87(2)(b)'s vehicle, and told § 87(2)(b) that they observed him using his cell phone while driving. PO Grady requested § 87(2)(b)'s license, and § 87(2)(b) refused to provide it, asking the officers why, and insisting he had not been using his phone. PO Grady ultimately issued § 87(2)(b) a summons for using his cell phone while driving (BR 01).

According to § 87(2)(b) (BR 03), during his argument with PO Grady about using his cell phone while driving and refusing to provide his license, PO Guertin told PO Grady, "We have his information already," due to the previous car stop at 6:44 p.m. PO Grady said, "No. You're going to give us your fucking license."

After approximately four or five minutes, § 87(2)(b) told PO Grady he would provide him with his license if PO Grady called a supervisor to the scene. PO Grady immediately came to the driver's side of § 87(2)(b)'s vehicle and continuously pulled on the door handle saying, "Open the fucking door. Give us your license. You're going to fucking jail." PO Guertin then told § 87(2)(b) he would call a supervisor and told § 87(2)(b) to give him his license. § 87(2)(b) gave his license to PO Guertin. PO Guertin and PO Grady walked back to their vehicle.

At this time, two supervisors arrived on scene and spoke to § 87(2)(b). The supervisors told § 87(2)(b) they would "admonish" PO Grady and PO Guertin.

Approximately five minutes later, PO Grady approached § 87(2)(b)'s vehicle on the passenger's side. PO Grady dropped § 87(2)(b)'s license and summons on his passenger's seat

without giving § 87(2)(b) a chance to take it from him. PO Grady said, “I know you’re not going to take it from me anyway,” and walked back to his car.

PO Grady (BR 04) and PO Guertin (BR 05) were consistent in that although § 87(2)(b) had provided his license during the car stop that occurred an hour prior, the officers needed to obtain his identification a second time because as per their experience in traffic court, they have to prove to the judge that the person who appeared in court is the same person to whom they issued the summons. Judges will sometimes “throw out” tickets if an officer does not obtain the motorist’s physical driver’s license and verify the motorist’s identity during the car stop.

Both officers testified that because § 87(2)(b) refused to provide his license, he could have been arrested for obstruction of governmental administration (OGA), refusing to comply with a lawful order, and talking on his cell phone while driving. PO Grady told § 87(2)(b) he could be arrested for refusing to provide his license.

PO Grady (BR 04) denied saying, “You’re going to give us your fucking license,” “Open the fucking door,” and denied using the word “fuck” or any other profanity during the incident.

PO Grady grabbed § 87(2)(b)’s driver’s side door handle because he was going to arrest § 87(2)(b). He did not open the door. Because § 87(2)(b) then provided his license, PO Grady did not arrest § 87(2)(b). PO Grady denied telling § 87(2)(b) “You’re going to fucking jail.”

After PO Grady obtained § 87(2)(b)’s license and went back to his and PO Guertin’s vehicle, he issued § 87(2)(b) a summons for talking on the phone while driving (BR 01). PO Grady returned to the passenger’s side of § 87(2)(b)’s vehicle and tried to give § 87(2)(b) the summons. As § 87(2)(b) did not respond, PO Grady said, “Sir, I’m trying to hand this to you. It appears you’re not going to take it, so I’m going to place it right here for you,” and placed the summons and § 87(2)(b)’s license on the passenger’s seat.

PO Guertin (BR 05) did not hear PO Grady say, “You’re going to give us your fucking license,” “Open the fucking door,” or use any profanity during the incident. PO Guertin did not hear PO Grady tell § 87(2)(b) “You’re going to fucking jail,” but did hear PO Grady tell § 87(2)(b) he could be arrested if he did not provide his license. PO Guertin did not see how PO Grady gave § 87(2)(b) his summons.

An officer can effect an arrest for a petty offense committed in his presence, including violations and traffic violations. Patrol Guide Procedure 208-01 (BR 06).

No person shall fail or refuse to comply with any lawful order or direction of a police officer or other person duly empowered to regulate traffic. Vehicle and Traffic Law 1102 (BR 07).

A person is guilty of OGA when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function by means of intimidation, physical force or interference, or by means of any independently unlawful act. Penal Law 195.05 (BR 08).

When issuing a summons, officers must request proof of identity from the violator. If doubt concerning their identity exists, officers must remove the violator to the stationhouse for investigation. Patrol Guide Procedure 209-09 (BR 09).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
[Redacted]
[Redacted]
- PO Grady has been a member of service for nine years and has been a subject in seven CCRB complaints and eight allegations, none of which was substantiated. § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
 - 201400671 involved an allegation of discourtesy (action) for PO Grady throwing a license in a motorist's face. The allegation was unsubstantiated.
 - 201607812 involved allegations of discourtesy (word) and discourtesy (action) for PO Grady throwing a summons on a dashboard. The case was closed as complainant uncooperative.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [Redacted] declined to mediate this complaint.
- As of June 26, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 12).

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date